

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
WIA PETITION FOR RULEMAKING,	)	WT Docket No. 19-250
WIA PETITION FOR DECLARATORY	)	RM-11849
RULING, AND CTIA PETITION FOR	)	WC Docket 17-84
DECLARATORY RULING	)	

**COMMENTS OF THE CITY OF FREDERICK**

These comments are filed by the City of Frederick, Maryland in response to the public notice released September 13, 2019 in the above-entitled proceeding.

**INTRODUCTION**

The City of Frederick urges the Commission to exercise caution as it works to facilitate the widespread deployment of small wireless infrastructure throughout the nation. The City of Frederick has enacted local regulations and is currently working with wireless companies to come to mutually agreeable solutions on the deployment of small wireless facilities in our community, and therefore strongly opposes any further federal regulations that impede local governments from exercising their authority to facilitate the siting of small wireless infrastructure in their jurisdictions.

The WIA and CTIA petitions strike a serious challenge to local governments' ability to exercise the full extent of their land use authority. Although an FCC Order favorable to the wireless industry went into effect in January 2019 and is the subject of legal challenge by local governments as of this writing, WIA and CTIA filed a petition to further alter federal regulations in favor of the wireless companies. The City of Frederick is opposed to additional federal regulations that prevent local governments from performing their duty to act in the best interest of the residents of their community.

**Local Preemption**

Section 6409(a) of the Spectrum Act mandates that a local government approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions thereof. The wireless industry seeks the alteration of the rules interpreting what constitutes a "substantial change" in a manner that would more easily allow a request to qualify for mandatory approval. The City of Frederick opposes this type of proposal as it would further impinge on local discretion.

## **Visual Aspects of a Small Wireless Facility**

The regulations enacted by the City of Frederick address aesthetic elements based on the FCC's 2018 Order. It is critically important that the City maintain the authority to shepherd small wireless facilities into our community, and particularly into our renowned Historic District, in a manner that minimizes visual impacts to surrounding properties and streetscapes. Several aspects of these petitions will diminish that authority. Especially problematic are the requests to limit the definition of "concealment element," shrink the interpretation of what constitutes an "equipment cabinet," expand the term "base station" to include the entire structure, and discard the notion that number and size of antennas is irrelevant to whether a change is substantial or not.

## **Poles**

Light poles owned by utilities and placed in a municipal right-of-way are subject to municipal regulations governing the use of the right-of-way as well as agreements between the municipality and the utility. Requests in the petitions to allow for mandatory access to light poles on terms and conditions dictated by the federal government unravels carefully crafted work done at the local level with the agreement of both utilities and municipalities. We see this as further erosion of local authority to govern an area in which local governments and utilities have operated on a mutually beneficial basis for many years.

## **CONCLUSION**

The City of Frederick strongly urges the Commission to eschew the addition of regulations that tie our hands on the important issue of siting small wireless infrastructure. In addition to acute concerns with these particular petitions, the City of Frederick opposes any attempt to limit or preempt local authority, whether through federal regulation, state legislation, or any other method.

Thank you for the opportunity to submit comments on these petitions and the siting of small wireless infrastructure. We strongly urge the Commission to consider our comments, as well as those submitted by other communities across the country, before taking any action that may adversely affect local governments' ability to exercise their land use authority and other legal authority respecting small wireless facilities.



Respectfully submitted,  
The City of Frederick

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